

ORIGINAL

IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF TEXAS FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

No. 4:17-CR-029-O

KRISTOPHER RAY FACIO (01)

FACTUAL RESUME

SUPERSEDING INFORMATION:

Count One: Attempted Coercion and Enticement, in violation of 18 U.S.C. § 2422(b);

PLEA: Guilty plea to Count One

PENALTY:

The penalties the Court can impose for count one is as follows:

- a term of imprisonment for not less than 10 (ten) years and not more than life;
- a fine up to the amount of \$250,000, or twice the pecuniary gain or twice the pecuniary loss per count;
- a mandatory special assessment of \$100;
- unless the Court finds the defendant to be indigent, an additional mandatory special assessment of \$5000 must also be imposed pursuant to 18 U.S.C. § 3014 for offenses occurring on or after May 29, 2015;
- a term of supervised release of any term of years or life but not less than five years, which is mandatory under the law and will follow any term of imprisonment. If the defendant violates any condition of the term of supervised release, the Court may revoke such release term and require that the defendant serve an additional period of confinement. Also, in a revocation of multiple counts, the Court may run sentences consecutively;
- restitution to victims or to the community, which may be mandatory under the law; and
- costs of incarceration and supervision.

ELEMENTS OF THE OFFENSE:

In order to establish the offense alleged in count one of the Information, the Government must prove the following elements beyond a reasonable doubt:

- First: That the defendant knowingly attempted to persuade, induce, or entice an individual to engage in sexual activity, as charged;
- Second: That the defendant used the Internet or any facility or means of interstate commerce to do so;
- Third: That the defendant believed that such individual was less than eighteen (18) years of age; and
- Fourth: That had the sexual activity actually occurred, the defendant could have been charged with a criminal offense under Texas state law, that is, a violation of Texas Penal Code Section 43.25(b), sexual performance of a child.

STIPULATION OF FACTS:

1. From on or about November 27, 2016, until on or about December 4, 2016, in the Northern District of Texas, the defendant, Kristopher Ray Facio, using a means and facility of interstate commerce, that is, a cellular telephone connected to the Internet, did knowingly attempt to persuade, induce, or entice an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be criminally charged under Texas state law, that is, a violation of Texas Penal Code Section 43.25(b), Sexual Performance of a Child.

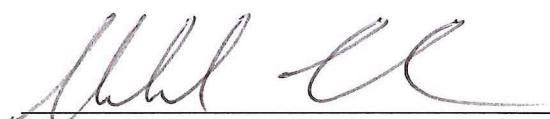
2. Specifically, Facio used a social media application on his cell phone such as Instagram to identify and communicate with a minor female for the purpose of inducing the minor to engage in sexual conduct or a sexual performance.

3. Between November 27, 2016 and December 3, 2016, Facio communicated via Instagram with a minor female who lived in Arkansas. During their chats, the minor told Facio she was less than eighteen (18) years of age. Facio engaged in sexually explicit communications. During their communications, Facio asked for sexually explicit images of the minor. The minor responded with a close-up image of a vagina and stated, "Here you wanted my p[redacted] you got it."

4. At the time that Facio communicated with this minor female, he was living in Erath County, Texas. Facio agrees that the act of inducing a child to produce a lewd and lascivious image of the minor's genitals constituted a violation of Texas Penal Code Section 43.25(b), that is, sexual performance of a child.

SIGNED and AGREED to on this the 7th day of April, 2017.


KRISTOPHER RAY FACIO
Defendant


MICHAEL LEHMANN
Attorney for Defendant